

6380 (Supplement to Notices of Judgment 722, 2549, and 3398). Adulteration and misbranding of bleached flour. U. S. * * * v. 625 Sacks of Bleached Flour. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 1389. I. S. 15237-b. S. No. 514.)

On February 24, 1914, the Supreme Court of the United States handed down a decision in which the judgment of the Circuit Court of Appeals, reversing the judgment of the District Court, which decreed the condemnation, forfeiture, and destruction of the product in the above cited case, was affirmed, and the case remanded to the District Court of the United States for the Western District of Missouri for a new trial.

On April 21, 1919, counsel for the Government and for the Lexington Mill & Elevator Co., having reached an agreement as to a proper disposition of the case, and the same having come on for final disposition in the said United States District Court, the following decree was entered on said date:

NOW on this, the 21st day of April, 1919, comes Francis M. Wilson, United States attorney and proctor for the libellant, and by leave of court first had and obtained, amends the amended libel or complaint heretofore filed in this cause, to wit: on the 19th day of May, 1910, by striking out from the fourth page thereof the paragraph (c) reading as follows:

(c) In that, by the treatment as aforesaid, the said flour has been caused to contain added poisonous, or other added deleterious ingredients, to wit: nitrites or nitrite reacting material, nitrogen peroxide, nitrous acid, nitric acid, and other poisonous and deleterious substances, which may render said flour injurious to health.

Now here comes also the Lexington Mill and Elevator Co., a corporation claimant herein, by Bruce S. Elliott, Esq., attorney and proctor for said claimant, and the said claimant thereupon, after the amending of the said amended libel as aforesaid, withdraws its claim and answer heretofore filed to the said amended libel or complaint, and withdraws its appearance and declines to further appear or to make any further claim, answer, or defense herein.

And this proceeding now coming on to be heard in due course, it is shown to the court that heretofore, to wit, on or about the 9th day of April, 1910, in the said Western Division of the said Western District of Missouri, and within the jurisdiction of this court, six hundred and twenty-five (625) sacks of flour, more or less, each containing forty-eight (48) pounds, more or less, of flour branded and labeled as follows, to wit: "L 48 Pounds Lexington Cream * * * Fancy Patent. This Flour is Made of Finest Quality Hard Wheat. Lexington Cream. Lexington, Nebraska, Lexington Mill and Elevator Company," (being still in the original packages) were taken, seized, and detained by the United States marshal for the district aforesaid, pursuant to an order and warrant of this court made and filed on said 9th day of April, 1910, and that the said marshal did publish a citation (in all respects pursuant to the said order of this court), giving notice generally unto all persons having, or pretending to have, any right, title, or interest in said property, to appear before this court in the City of Kansas City, Jackson County, Missouri, in the said judicial division and district on the following 30th day of April, if it should be a court day, or else on the next court day thereafter, at ten o'clock in the forenoon of said day, then and there to make known their claims and allegations in said matter, and which said notice was published (in all respects pursuant to the said order), by the said marshal for at least fifteen (15) days, exclusive of Sundays, prior to the said return day in the Kansas City Journal, a daily newspaper published and printed in Kansas City, Missouri, aforesaid, and within the division and district in which said property was situated; and it further now appearing to the court that no one has appeared as notified and required by the said citation; and it further appearing that the clerk of this court (in all respects pursuant to the said order of the court), did on said 9th day of April, 1910, issue the process and monition of this court usual in such cases; and it now appearing that no one has appeared thereto;

Now, therefore, it is ordered that the said amended libel be taken pro confesso; and the said cause coming on to be heard ex parte, and the court

being fully advised, doth find all of the allegations of said amended libel herein are true.

It is, therefore, ordered adjudged and decreed that the said six hundred and twenty-five (625) sacks of flour, more or less, as aforesaid, be and the same are hereby condemned and forfeited to the United States, and the marshal of this court is hereby ordered and directed to proceed to confiscate and utterly destroy all of said property, and to report to this court how he executed this order and decree.

It is further ordered adjudged and decreed that the taxed costs of the libelant herein, and the taxed costs of the claimant, be paid by the claimant, Lexington Mill and Elevator Company, said claimant in open court consenting thereto.

C. F. MARVIN, *Acting Secretary of Agriculture.*